

MISC. CRIMINAL APPLICATION NO. 532 OF 1996.

Date of decision: 10.4.1996.

For approval and signature

The Honourable Mr. Justice R. R. Jain

Mr. B.B. Naik, advocate for petitioners.

Mr. S.R. Divetia, A.P.P. for respondent No.1.

Respondent No.2 - party in person.

1. Whether Reporters of Local Papers may be allowed to see the judgment?-NO
2. To be referred to the Reporter or not?-NO
3. Whether their Lordships wish to see the fair copy of judgment? -NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? -NO
5. Whether it is to be circulated to the Civil Judge? -NO

Coram: R. R. Jain, J.

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April 10, 1996.

Oral judgment:

1. Heard Mr. Naik, learned advocate for petitioners and Mr. S.R. Divetia, learned A.P.P. for respondent No.1 State.

2. The petition is filed under Section 482 of the Criminal Procedure Code for quashing the complaint lodged by respondent No.2 against the present petitioners, registered at C.R. I-7/96 with Dhansura Police Station for offences under sections 448, 323, 337, 504, 506 (2) and 114 of Indian Penal Code read with Section 135 of B.P.Act and sections 3 and 7 of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Atrocities Act"). On 1.2.1996 when the matter was taken up for hearing on merits respondent No.2, original complainant, was present in person and informed the court that the matter has been compromised between the parties with the intervention of respectable and elderly members of the community and the same has been reduced in writing. Respondent No.2 also produced xerox copy of the compromise dated 28.1.1996. The same was taken on record by this court's (Coram: S.M. Soni, J.) order dated 1.2.1996. The compromise is also admitted by Mr. Naik on behalf of petitioners.

3. Mr. Naik, learned advocate for the petitioners, submits that as the matter has been compromised between the parties the grievance does not survive and the FIR deserves to be quashed and cannot be proceeded. In order to appreciate his contention, a bare look at section 320 of the Criminal Procedure Code makes it quite clear that the offences punishable under Atrocities Act are not compoundable either by parties or with the intervention of court and, therefore, at the outset it will be difficult for this court to accept the alleged compromise between the parties and to form basis for quashing complaint. However, Mr. Naik has relied upon judgment of this court (Coram: K.J. Vaidya, J.) in the case of Bharwad Rupabhai Bhalabhai v. State of Gujarat, 1994 GLH 369, wherein it has been held that if the law is silent on the point of compromise but whether the justice is also required to maintain tight lips or something should be done by the court which may ultimately bring about peace and harmony between the two classes of the Society which is fundamental pre-requisite for the maintenance of the rule of law, justice and the overall happy and peaceful society. It is true that in case of minor offences even if law is silent about compromise looking to the facts and circumstances and with a view to achieve the ultimate goal of rule of law and bring peace and harmony in the society the court, if deems fit and proper, can accept compromise and compound the offence. On perusal of the FIR, Annexure A, on the face of record, it appears that there was nothing like pre-design in the mind of the petitioners to commit any such offence for which they are charged. Whatever is alleged to have been done or committed was in passion of heat but ultimately when the wisdom prevailed and passion is cooled down and the parties having come to sense and on being persuaded by respectable and elderly members of the society as well as community they have compromised with a view to bring harmony and peace in the society especially between two classes and if the aggrieved party approaches the court

with a view to compounding offence, in my view, even in absence of express provision the Court cannot sit tight lips and refuse the same. Considering the subsequent developments and the relations developed between the parties, I feel that it would be in the larger interest of administration of justice to accept the compromise and quash the FIR in question.

4. In the result, compromise pursis dated 28.1.1996 between the petitioners and respondent No.2-original complainant, is hereby accepted. The FIR being C.R.I-7/96 registered with Dhansura Police Station for the offences under sections 448, 323, 337, 504, 506 (2) and 114 of IPC read with Section 135 of B.P. Act and Sections 3 and 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby quashed and set aside. The petitioners are hereby discharged of all the charges levelled against them. Rule made absolute accordingly.